

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-and-

SIERRA CLUB,

Plaintiff-Intervenor,

-v-

Case Number: 10-13101

DTE ENERGY COMPANY, and  
DETROIT EDISON COMPANY,

Defendants,

\_\_\_\_\_/

TELEPHONIC CONFERENCE  
BEFORE THE HONORABLE BERNARD A. FRIEDMAN  
UNITED STATES DISTRICT JUDGE  
100 U. S. Courthouse & Federal Building  
231 West Lafayette Boulevard West  
Detroit, Michigan 48226  
TUESDAY, MAY 13<sup>TH</sup>, 2014

**APPEARANCES:**

For the Plaintiff:	Thomas A. Benson, Esq. Kristin M. Furrie, Esq.
For Plaintiff-Intervenor:	Mary M. Whittle, Esq. Nicholas J. Schroeck, Esq.
For the Defendants:	F. William Brownell, Esq.

To Obtain Certified Transcript, Contact:  
JOAN L. MORGAN, OFFICIAL COURT REPORTER  
734 812-2672

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TELEPHONIC CONFERENCE  
TUESDAY, MAY 13<sup>TH</sup>, 2014

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1 Detroit, Michigan

2 May 13<sup>th</sup>, 2014

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4 THE COURT: Hello.

5 How is everybody today?

6 Tell me who's here for the United States.

7 MR. BENSON: Hi, your Honor.

8 For the United States it's Tom Benson and Kristin  
9 Furrie.

10 THE COURT: Okay. And Sierra Club?

11 Not here. That's fine. No problem.

12 MS. WHITTLE: Your Honor, Sierra Club is  
13 represented by Mary Whittle and local counsel Nicholas  
14 Schroeck is also on the phone.

15 THE COURT: Oh, okay, you're there. I appreciate  
16 it. Thanks.

17 Today was kind of a status conference, I thought.  
18 We have a couple of things that are outstanding.

19 Number one, it's my understanding that nobody has  
20 any objection to the certification of the motion; is that  
21 everybody's understanding -- of the issues so that it can  
22 go to the Court of Appeals on one issue? Everybody agrees  
23 on that, I think.

24 MR. BROWNELL: That's correct, your Honor, for DTE  
25 Energy --

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1 THE COURT: Anybody oppose to it?

2 We hear no opposition. Oh, good.

3 So why doesn't someone prepare an order to that  
4 effect, and I would suspect -- oh, we'll do it?

5 THE CLERK: You issued that this morning.

6 THE COURT: Oh, we already issue it. I signed it.  
7 So we're all set on that one. I forgot the file.

8 The other issue that we have is the motion for --

9 THE CLERK: Motion for reconsideration of DTE and  
10 Sierra responding to it.

11 THE COURT: So where do we stand on that one?

12 This is Dan, one of my clerks talking.

13 THE CLERK: The issue there was whether Sierra  
14 Club should be allowed to amend their complaint and add  
15 that extra claim.

16 THE COURT: Okay.

17 MR. BROWNELL: Judge Friedman, this is Bill  
18 Brownell --

19 THE COURT: Go on, Bill.

20 MR. BROWNELL: DTE consented with respect to four  
21 of the claims, but the fifth claim was one that was not  
22 brought by the Government. In the motion we simply wanted  
23 to note that, that was opposed, it wasn't unopposed.

24 THE COURT: You oppose it. I'm coming back to  
25 that. I'm in a middle of another case.

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1 I'm not going to allow Sierra to add anything  
2 that was not originally in the structure of the original  
3 complaint.

4 There's one more thing that we had outstanding  
5 and that was --

6 THE CLERK: That was the extension of time to  
7 respond --

8 THE COURT: Oh, no nobody objects to the extension  
9 of time?

10 MR. BROWNELL: DTE's motion to extend the time to  
11 respond to the amended complaint.

12 THE COURT: Right, and nobody's objected so you  
13 may have that time.

14 Okay. Is there anything else that we should be  
15 talking about today that we haven't, or anything?

16 You know, we'll have to wait and see what the  
17 Court of Appeals does. So we'll stay everything else until  
18 we see what they're going to do.

19 MS. WHITTLE: Your Honor, this is Sierra Club, I  
20 just wanted to mention that the additional claim we believe  
21 was within -- it continues to be within the same realm of  
22 all the other claims. The Government isn't bringing it, we  
23 are bringing it independently of the Government.

24 THE COURT: Okay.

25 MS. WHITTLE: It's all the same type of claim.

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1 THE COURT: Okay. Then it doesn't make any  
2 difference. I'm not going to allow you to amend or do  
3 anything else. If you think it's part of the same claim,  
4 that's fine. There's no problem. But I'm not going to  
5 expand on anything that isn't there by Sierra Club.

6 Okay. Anything else?

7 Okay. We'll wait and see what happens and go from  
8 there.

9 MR. BENSON: Okay. Thank you, your Honor.

10 THE COURT: Okay. Anything else?

11 MS. WHITTLE: No.

12 THE COURT: Okay. Thanks.

13 Bye-bye.

14 MR. BROWNELL: Thanks.

15 (Proceeding concluded.)

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CERTIFICATE

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October 20<sup>th</sup>, 2014

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S:/ JOAN L. MORGAN, CSR

Official Court Reporter

Detroit, Michigan 48226

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